

MICHAEL E. ZAPIN, ESQ.
Admitted for this Case, *Pro Hac Vice*
Florida Bar No. 0037264
michaelezapin@gmail.com
20283 State Rd 7, Suite 400
Boca Raton, FL 33498
Tel. 561.843.5352

HERMAN A. SAITZ, ESQ.
Resident Nevada Counsel
Nevada Bar No. 389
2001 Redbird Drive
Las Vegas, NV 89134
Tel. 702.807.5757

ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Case No. 2:16-cv-00578-JAD-PAL

BARRY MICHAELS on behalf of himself
and all others similarly situated,

Plaintiffs,

vs.

LORETTA LYNCH, as Attorney General of
THE UNITED STATES OF AMERICA and

THOMAS E. BRANDON, as DEPUTY DIRECTOR,
HEAD OF THE BUREAU OF ALCOHOL,
TOBACCO, FIREARMS AND EXPLOSIVES,

Defendants

***CONSENT/UNOPPOSED MOTION TO ENLARGE PLAINTIFF'S TIME
TO RESPOND TO DEFENDANTS' MOTION TO DISMISS***

COMES NOW the above named Plaintiff, by and through his undersigned attorney of record MICHAEL E. ZAPIN, pursuant to Local Rule 7.2 and Rule 6(b) of the Federal Rules of Civil Procedure, and files this *consent/unopposed motion* to extend plaintiff's time to respond to defendants' pending motion to dismiss up through and including August 25, 2016, and respectfully sets forth the following:

I. PROCEDURAL BACKGROUND

1. Plaintiff filed his complaint against the defendants on March 15, 2016 [DE 1].
2. Defendants filed an unopposed/consent motion to extend their time to answer or otherwise move with respect to service of plaintiff's complaint, and same was granted by 6/23/2016 Order of the Court up through 7/25/16 [DE 17].
3. Defendants served their motion to dismiss plaintiff's complaint on 7/25/2016 [DE 19], and the docket entry indicates that "Responses [are] due by 8/11/2016."

II. "GOOD CAUSE" OR "EXCUSABLE NEGLIGENCE"

4. Local Rule 7-2(b) provides in pertinent part, that "points and authorities in response to a motion shall be filed and served by an opposing party fourteen (14) days after service of the motion."
5. Rule 6(b)(1) of the Federal Rules of Civil Procedure, provides, in pertinent part:

(b) Extending Time.

(1) *In General.* When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

6. Plaintiff submits that the circumstances described herein constitute both “good cause” and “excusable neglect” irrespective of whether or not this instant application is considered timely (based upon the 7/25/2016 docket entry) or late (based upon 14 day calendar computation).
7. On 7/27/2016 undersigned counsel Michael Zapin was admitted via Emergency Room, to the Boca Raton Regional Hospital, where he remained subject to medical treatments for serious medical conditions, through August 4, 2016. Although counsel was released August 4th, counsel’s recovery/recuperation period is continuing, and counsel has only recently resumed work from his home on a *limited* basis. Excerpted/redacted medical record is annexed hereto and made a part hereof as **EXHIBIT “A.”**
8. Defendants will not be prejudiced by the granting of the within requested relief. Counsel conferred with defendants’ counsel, Daniel Reiss, Esq., via email, who indicated his consent to the relief requested herein. On the other hand, plaintiff would be substantially prejudiced if the within requested relief were not to be granted, since the Court would likely grant defendant’s motion on the basis of default, rather than evaluating the motion on the basis of merit.

WHEREFORE, for all of the forgoing reasons, it is respectfully requested that the Court enter an Order enlarging plaintiff’s time to respond to defendants’ pending motion to dismiss, up through and including August 25, 2016, along with such other and further relief that the

Court deems just and proper.

DATED: August 11, 2016.

/s/ Michael E. Zapin

MICHAEL E. ZAPIN, ESQ.
Admitted for this Case, Pro Hac Vice
Florida Bar No. 0037264
michaelezapin@gmail.com
20283 State Rd 7, Suite 400
Boca Raton, FL 33498
Tel. 561.843.5352

HERMAN A. SAITZ, ESQ.
Resident Nevada Counsel
Nevada Bar No. 389
2001 Redbird Drive
Las Vegas, NV 89134
Tel. 702.807.5757

ATTORNEYS FOR PLAINTIFF



PATIENT ID: 1620801537



FORM: 60095082



800 Meadows Road
Boca Raton, FL 33486

Name: ZAPIN, MICHAEL

DOB: [REDACTED]

Gender: M

MRN: 001374858

Account: [REDACTED] 1537

Admit Date: 07/27/2016 06:53

Requested Date: 08/04/2016 11:16

Patient Discharge Instructions for: MICHAEL ZAPIN

Allergies: NKA

Most Recent Vital

Signs:

DISCHARGE DIAGNOSIS Biliary colic (K80.51, K80.50).
Discharge Diagnosis.

DISCHARGE HOME Additional Discharge Instructions?:
... - Remove tele pack immediately as applicable.

*Discharge Diet see instructions below.

Other Discharge Diet Instructions low fat, low salt.

*Activity Instructions as tolerated.

Call your physician's office if your condition worsens or if the following symptoms occur: nausea/vomiting, bloody/smelling urine, unusual pain, increase redness/swelling/drainage/pain from your incision (if applicable), or if you have questions about your medications or pain management.

Followup Appt #1 Physician Name Dr.Solomon.

Followup Appt #1 When 1 week.

Followup Appt #2 Physician Name Dr.Dodson.

Followup Appt #2 When 2 weeks.

Your list of medications is on the MEDICATION RECONCILIATION FORM that your physician has reviewed and completed for you. The medication reconciliation form with prescriptions (if applicable) is provided to you with this written instruction sheet. If you have any questions on possible side effects and food/drug interactions, please ask your nurse or physician.

*Transfusion Received no.

ZAPIN, MICHAEL



16208-01537

DOB: [REDACTED] 52Y M

ADM: 07/26/16

Unit: 001374858

